United Nations A/58/269

General Assembly

Distr.: General
12 August 2003

Original: English

Fifty-eighth session
Item 133 of the provisional agenda*
Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Budget for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2004-2005

Report of the Secretary-General

Summary

The present report contains the resource requirements for the biennium 2004-2005 for the International Criminal Tribunal for Rwanda.

The resources for the biennium 2004-2005, before recosting, amount to $208,768,800 gross ($187,272,900 net), including growth of $4,806,200 gross ($4,402,200 net), or 2.4 per cent, compared with the revised appropriation for 2002-2003. The real resource changes include provisions for the delayed impact of 109 new posts and the ad litem judges approved for the biennium 2002-2003.

In nominal terms, the estimate for the biennium 2004-2005 amounts to $235,177,100 gross ($212,857,900 net), and reflects an increase of $25,585,000 net due mainly to the impact of changes in inflation, offset by a decrease in exchange rates.

* A/58/150.

03-46583 (E) 190903

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I. Overview

1. The International Criminal Tribunal for Rwanda was established by the Security Council in its resolution 955 (1994) of 8 November 1994 with the power, according to articles 2, 3 and 4 of its statute, to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other violations of international humanitarian law committed in the territory of neighbouring States between 1 January and 31 December 1994. In accordance with article 10 of its statute, the Tribunal consists of three organs, namely, the Chambers, the Prosecution and the Registry.

2. By its resolution 1329 (2000), of 30 November 2000, the Security Council expressed its continuing conviction that in the particular circumstances of Rwanda, the prosecution of persons responsible for genocide and other serious violations of international humanitarian law contributed to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda and in the region.

3. Since the adoption of that resolution, the Tribunal has made efforts to devise measures to speed up the proceedings. To that effect, in July 2001 the President submitted to the Security Council for its consideration a proposal for the creation of a pool of ad litem judges.

4. Pursuant to its resolution 1431 (2002) of 14 August 2002, the Security Council established a pool of ad litem judges and decided that the Chambers should be composed of 16 permanent independent judges and a maximum at any one time of four ad litem independent judges appointed in accordance with article 12 ter, paragraph 2, of the statute. There is also a proviso that no two judges shall be nationals of the same State.

5. Regarding the terms of service of the 16 permanent independent judges sitting in the Chambers, it must be noted that in May 2003 the terms of office of 11 judges expired. The General Assembly re-elected seven judges for an additional four-year term (Judge Asoka de Zoysa Gunawardana (Sri Lanka) and Judge Mehmet Guney (Turkey) for the appeals chamber in The Hague and Judge Erik Møse, Judge William Hussoin Sekule, Judge Lloyd George Williams, Judge Arlette Ramaroson and Judge Andrésia Vaz for the trial chambers in Arusha), and four new judges were elected to serve in the next term (Judge Serguei Egorov (Russian Federation), Judge Inés Weinberg de Roca (Argentina), Judge Jai Ram Reddy (Fiji) and Judge Khalida Rashid Khan (Pakistan)).

6. On 21 May 2003, Judge Møse (Norway) was elected President of the Tribunal and Judge Vaz (Senegal) was elected Vice-President by the judges.

7. A number of important developments have taken place in the substantive work as well as in the management of the Tribunal that will significantly affect the programme of work for the biennium 2004-2005. By the end of 2003 it is expected that the Tribunal will have delivered 4 judgements involving 8 accused, thus bringing the total result of the second mandate to 9 judgements involving 14 accused. Furthermore, by the end of the current biennium the Tribunal will have rendered 15 judgements involving 21 accused since the first trial started in 1997. As at July 2003, three cases were on appeal (*Elizaphan and Gérard Ntakirutimana*, *Eliézer Niyitegeka* and *Laurent Semanza*).

8. In addition to the 21 accused whose trials have either been completed or are at the stage of closing arguments, 41 detainees in the United Nations detention facilities in Arusha are either engaged in trial or awaiting trial. As at 30 June 2003, trials in the *Butare* case (6 accused) and the *Military* case (4 accused) are in progress. Both cases are voluminous and are at a relatively early stage. Moreover, it is expected that 4 trials involving 10 accused will start in the second half of 2003, partly as a consequence of the arrival of the newly elected ad litem judges. It is therefore anticipated that 20 of the remaining 41 detainees will be on trial by the end of 2003.

9. Regarding the executive functions of the Tribunal, key developments have taken place during the biennium 2002-2003 that will also significantly affect the future work of the Tribunal. The Tribunal filled two and replaced two pivotal management positions, thereby strengthening the leadership structure. The posts of Chief, Investigations Division, and Chief, Evidence and Information Support section were filled in December 2002, while the posts of Deputy Prosecutor and Chief of the Prosecution Division were filled in February 2003.

10. The enforcement of sentences continues to be a major challenge for the Tribunal, as arrangements for this purpose have reached an advanced stage. Recently, the Tribunal entered into an agreement with France on the enforcement of sentences imposed by the Tribunal on convicted persons. The agreement, which will become effective upon ratification by the French National Assembly, brings the number of countries that have entered such agreements to four. The other countries are Benin, Mali and Swaziland. Negotiations are in progress with other African and European States. At present six prisoners, including the former Prime Minister of Rwanda, Jean Kambanda, are serving their sentences in Bamako.

11. The Tribunal continues to implement reformatory measures relating to the defence of accused persons intended to eliminate any abuses of the legal aid regime. In keeping with the details set out in the report of the Office of Internal Oversight Services (A/55/759), the Tribunal recruited a consultant to study the legal aid system in detail and to make commentaries on reform of the system. A separate report on this matter will be submitted to the General Assembly.

12. Pursuant to the recommendation of the Board of Auditors in paragraph 40 of its report[1] and as requested by the General Assembly in its resolution 57/289 of 20 December 2002, the Tribunal has developed a completion strategy, which is provided in the annex below. As the completion strategy is based on the completion of a maximum number of trials, the priorities for the biennium 2004-2005 reflected in the proposed programme budget focus on the efficient and effective management of trials and related legal and judicial support processes, enhanced efficiency of administrative support services and a more systematic and effective mobilization of external political, operational and material support by Member States and other relevant entities.

13. In its resolution 56/248 A of 24 December 2001, the General Assembly decided to appropriate to the Special Account for the International Tribunal for Rwanda, on a provisional basis, a total amount of $192,312,400 gross ($173,611,600 net) for the biennium 2002-2003. By the same resolution, the Assembly decided that

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 5K* and corrigenda (A/57/5/Add.11 and Corr. 1-3), chap. II.

the staffing table for the Tribunal should remain at the level approved for 2001 until a further review was conducted in March 2002. The Assembly also authorized the use of general temporary assistance resources necessary to provide the equivalent of up to 77 new posts recommended by the Advisory Committee on Administrative and Budgetary Questions, it being understood that the action would be without prejudice to the decisions adopted by the Assembly at its resumed fifty-sixth session regarding an authorized staffing table for the biennium 2002-2003.

14. In its resolution 56/248 B of 27 March 2002, the General Assembly approved the staffing table recommended by the Advisory Committee and decided on a revised appropriation of $197,127,300 gross ($177,739,400 net) for the biennium 2002-2003.

15. By its resolution 57/289, the General Assembly resolved that the revised appropriation should be adjusted by an amount of $4,657,600 gross ($4,254,100 net) to account for the additional resources required in connection with the establishment of a pool of ad litem judges, for a total of $201,784,900 gross ($181,993,500 net), before recosting. In the same resolution, the Assembly authorized the Secretary-General to enter into commitments, where necessary, in an amount not to exceed $2,177,700 gross ($879,200 net), for the resource requirements of the Tribunal to support the recosting of resources for the biennium 2002-2003, and requested him to report to the Assembly in the context of the second performance report for the biennium.

16. In the same resolution, the General Assembly requested that the budget requirements for the Registry, the Office of the Prosecutor and the non-judicial, administrative functions of the Chambers be presented in a results-based format, linking objectives and inputs to expected accomplishments to be measured by indicators of achievement. Pursuant to that request, the Secretary-General has prepared a results-based logical framework reflecting objectives, expected accomplishments, indicators of achievement, and performance measures with respect to baselines and targets. External factors have also been included. The logical framework has been prepared in accordance with General Assembly resolution 55/231 of 23 December 2000 and with the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation (ST/SGB/2000/8). The definitions of a number of key terms, as set out in the Regulations and Rules Governing Programme Planning, are highlighted in table 9.

17. Prior to the preparation of the Tribunal's budget, staff at both Tribunals received training on the results-based-budgeting approach currently practised at the United Nations. Results-based management was emphasized as a requirement for the full implementation of the Tribunal's work, which is to be geared towards the achievement of the expected results, taking due account of the completion strategy.

18. The point of departure for the 2004-2005 proposed programme budget is that the Tribunal would rationalize and streamline its work so as to ensure that resources and activities support the development and implementation of a sound and realistic completion strategy and address new requirements for established posts through redeployment. Along these lines, the Secretary-General is proposing a budget in the amount of $208,768,800 gross ($187,272,900 net), including growth of $4,806,200 gross ($4,402,200 net), or 2.4 per cent over the 2002-2003 appropriation, before recosting. The resource requirements indicated in tables 1 and 2 below include

$960,000 for honorariums, reflecting the delayed impact of the appointment of four ad litem judges; $2,517,700 in respect of 109 new posts approved for the biennium 2002-2003 and the continuation of 875 posts, including the conversion from temporary assistance of three posts — two P-4 and one P-3 — under Office of Internal Oversight Services, which will be required on a continuous basis for the duration of the Tribunal's mandate; and $330,400 for United Nations security measures. Other than minor adjustments in non-post costs, the budget is being recommended at the maintenance level.

19. In accordance with the recommendation of the Advisory Committee on Administrative and Budgetary Questions (A/55/643, para. 63) and as requested by the General Assembly in its resolution 57/289, due consideration has been given to the provision of resources to facilitate the enforcement of sentences and the renovation of prison facilities. Accordingly, a provision of $920,400 is included to cover costs related to the enforcement of sentences and $250,000 is provided for upgrading prison facilities to international standards.

20. The recosting of budgetary provisions at 2004-2005 rates will require an increase of $26,408,300, consisting of the impact of changes in the rate of inflation ($30,040,000), adjustments to standard salary costs ($1,884,900), and International Civil Service Commission recommendations on net remuneration ($2,900,000) offset by decreases in exchange rates ($8,416,600).

21. The amount of extrabudgetary resources, estimated at $2,723,900, will be utilized for activities related to, inter alia, supporting the work of the Office of the Prosecutor and the Registry.

22. The distribution of resources proposed for the Tribunal for the biennium 2004-2005 are reflected in tables 1-3 below.

Table 1
Percentage distribution of resources by components

	Assessed budget	*Extrabudgetary*
1. Chambers	3.5	-
2. Office of the Prosecutor	24.5	6.0
3. Registry	72.0	94.0
Total	**100.0**	**100.0**

Table 2
Summary of requirements
(Thousands of United States dollars)

(1) Assessed budget

Component	*2000-2001 expenditure*	*2002-2003 appropriation*[a]	*Resource growth*		*Total before recosting*	*Recosting*	*2004-2005 estimate*
			Amount	*Percentage*			
Expenditure							
1. Chambers	3 985.1	5 009.1	2 203.0	44.0	7 212.1	132.4	7 344.5
2. Office of the Prosecutor	42 581.9	51 300.4	(170.6)	(0.3)	51 129.8	9 217.2	60 347.0
3. Registry	133 217.0	147 653.1	2 773.8	1.9	150 426.9	17 058.7	167 485.6
Total expenditure (gross)	**179 784.0**	**203 962.6**	**4 806.2**	**2.4**	**208 768.8**	**26 408.3**	**235 177.1**
Income							
Income from staff assessment	16 479.2	21 091.9	404.0	1.9	21 495.9	823.3	22 319.2
Total requirements (net)	**163 304.8**	**182 870.7**	**4 402.2**	**2.4**	**187 272.9**	**25 585.0**	**212 857.9**

(2) Extrabudgetary resources

	2000-2001 expenditure	*2002-2003 estimate*	*2004-2005 estimate*
Activities	853.4	2 368.6	2 723.9
Total requirements	853.4	2 368.6	2 723.9
Total (1) and (2)	**164 158.2**	**185 239.3**	**215 581.8**

[a] Includes commitment authority in the amount of $2,177,700 in accordance with General Assembly resolution 57/289.

Table 3
Post requirements

Category	*Assessed budget*		*Extrabudgetary*		*Total*	
	2002-2003	*2004-2005*	*2002-2003*	*2004-2005*	*2002-2003*	*2004-2005*
Professional and above						
Assistant-Secretary-General	1	1	-	-	1	1
D-2	1	1	-	-	1	1
D-1	4	4	-	-	4	4
P-5	29	29	-	-	29	29
P-4	80	82[a]	-	-	80	82
P-3	153	154[b]	-	-	153	154
P-2/1	112	112	-	-	112	112
Subtotal	**380**	**383**	**-**	**-**	**380**	**383**
General Service and other						
Principal level	7	7	-	-	7	7
Other level	175	175	-	-	175	175
Security Service	87	87	-	-	87	87
Local level	308	308	-	-	308	308
Field Service	24	24	-	-	24	24
Subtotal	**601**	**601**	**-**	**-**	**601**	**601**
Total	**981**	**984**	**-**	**-**	**981**	**984**

[a] Includes the conversion of two P-4 posts from temporary assistance resources for internal oversight services.
[b] Includes the conversion of one P-3 post from temporary assistance resources for internal oversight services.

II. Programme of work

A. Chambers

23. The trial chambers of the International Criminal Tribunal for Rwanda comprise nine permanent trial judges and four ad litem judges in Arusha, United Republic of Tanzania. The appeals chamber consists of seven permanent appeals judges in The Hague, five of whom are financed from the International Criminal Tribunal for the Former Yugoslavia and two of whom are charged to the budget of the International Criminal Tribunal for Rwanda.

24. In May 2003 the terms of office of 11 judges expired. The General Assembly re-elected five judges, and four new judges were elected to serve in the next term. Two judges were also re-elected to the appeals chamber in The Hague (see para. 5 above).

25. In April 2003, the Secretary-General, acting on the request of President Navanethem Pillay, referred to the General Assembly and the Security Council for consideration the extension of the terms of office of the four non-elected judges in order to allow them to dispose of a number of ongoing cases that they had already begun and that would not be completed by the time their terms of office ended on 24 May 2003. The request included extension of the terms of service of Judge Pillay to the end of December 2003, Judge Ostrovsky and Judge Dolenc to the end of February 2004 and Judge Maqutu until the end of December 2004.

26. In response to the Tribunal's request, the Security Council in its resolution 1482 (2003), decided that Judge Dolenc and Judge Ostrovsky, who had been replaced as members of the Tribunal, finish the *Cyangugu* case, which had begun before their terms of office expired, before the end of February 2004, and Judge Maqutu and Judge Pillay, also replaced as members of the Tribunal, finish the *Kajelijeli*, *Kamuhanda* and *Media* cases before the end of December 2003.

27. Pursuant to General Assembly resolutions 53/212 and 53/213 of 18 December 1998, the Secretary-General established an expert group to conduct a review of the effective operation and functioning of the International Tribunals. The report of the expert group (A/54/634) recommended that, in order to deal with the increased workload, the use of temporary ad hoc judges ought to be favourably considered if that remained the only practical solution for expediting the completion of the Tribunals' missions (recommendation 21). Accordingly, the President of the Tribunal proposed to the Security Council the creation of a pool of ad litem judges to meet this increased workload. The Security Council, in its resolution 1431 (2002), decided to establish a pool of ad litem judges and requested the Secretary-General to make practical arrangements for the election of 18 ad litem judges. The Council amended article 11 of the statute of the Tribunal for the composition of the Chambers to consist of 16 permanent independent judges, and a maximum at any one time of four independent ad litem judges appointed in accordance with article 12 ter.

28. On 25 June 2003, by its decision 57/414 C, the General Assembly elected 4 ad litem judges from a pool of 18 for the International Criminal Tribunal for Rwanda.

29. It is anticipated that upon arrival of the first ad litem judges one of the trial chambers will be split into two sections consisting of three judges each and that the

different sections will sit in two daily shifts of approximately five hours each. The proposed scheme originates from a successful exercise conducted in October 2002 in which one of the trial chambers sat in shifts. As in the International Criminal Tribunal for the Former Yugoslavia, the ad litem judges will sit with permanent judges in the trial chamber sections.

30. With respect to the future programme, the Office of the Prosecutor plans to complete an additional 26 investigations, which are expected to be brought to the indictment phase by the end of 2004. The Prosecutor has also identified 40 suspects whose prosecution she intends to refer to national jurisdictions for trial. At this time, unlike the situation in the International Criminal Tribunal for the Former Yugoslavia, where rules of procedures have been established and the Security Council has concurred in transferring cases to national jurisdictions, no such procedures have been established for the International Criminal Tribunal for Rwanda.

31. The Office of the Prosecutor has indicated its readiness to proceed with trials in 7 cases, involving possibly 12 of the other 41 persons in custody. Trials involving 20 accused continue, but judgements involving 10 of them are expected in the next year, and judgements in the short cases due to start this year are to be expected within the same time frame. The *Butare* and *Military* cases are expected to occupy their respective trial chambers for much of the current biennium, but it is anticipated that, with the addition of the ad litem judges, trial capacity will allow the commencement of trials involving several other detainees.

32. The information provided by the Prosecutor suggests that, of the cases that would be ready to start this year, estimates are given of the number of prosecution witnesses, the number of hours the witnesses will require and approximately when the case will be ready to start. Further information is required to establish the exact time and sequence of the hearing of those cases.

33. To this end, the Chambers has been engaged in consultation meetings with different sections of the Tribunal to plan the trial programme for the biennium.

34. It is anticipated that during the period of the proposed programme budget, the Chambers will deliver judgement on 10 trials and complete 8 trial-ready cases and 21 pre-trial procedures. In order to effectively accommodate the increase in courtroom activity, the Chambers will strive to maximize the use of resources available through the operation of its courtrooms in two daily shifts.

35. During the biennium 2004-2005, the following activities will be undertaken:

(a) Courtroom activities: orders for the transfer and detention of suspects, initial appearances, hearings on pre-trial motions, status conferences, pre-trial conferences, pre-defence conferences, reviews of and orders for protection measures for witnesses, trials, issuance of judgements of acquittal under rule 98 bis, issuance of final judgements, sentencing procedures, reviews and deferrals, suspensions of indictments under rule 11 bis and issuance of restitution orders in appropriate cases;

(b) Judicial activities: review and confirmation or dismissal of indictments or counts thereof, deliberations, consideration of applications for orders and warrants, taking of depositions, holding of informal scheduling conferences, consideration of amicus curiae applications and supervision of imprisonment;

(c) Reporting to organs of the United Nations: preparation of reports of the President to the Security Council, on the request of a trial chamber or the Prosecutor, as to non-compliance by States with orders of the Tribunal, and annual reports to the Security Council and the General Assembly under article 32 of the statute;

(d) Issuing appeals for international assistance to States;

(e) Holding plenary sessions of judges: discussion of issues of mutual concern and matters of policy and consideration and modification of the Rules of Procedure and Evidence and other basic texts of the Tribunal;

(f) Publications: issuance of definitive editions of the Rules of Procedure and Evidence and the basic texts of the Tribunal in both working languages of the Tribunal, in both hard-copy and electronic formats;

(g) For the issuance of opinions, decisions and judgements of trial proceedings: research in international and national law and preparation, drafting, editing and issuance of all such documents, in both working languages of the Tribunal, in both hard-copy and electronic formats;

(h) Press relations: the President may on occasion issue press releases on matters of importance to the Tribunal as a whole; the President and Vice-President also meet representatives of the media;

(i) Special events: hosting visiting dignitaries, usually at the ambassador or foreign minister level, and meeting heads of State, explaining courtroom activities and the functioning of the Tribunal, establishing and maintaining high-level contacts with Governments of Member States to facilitate and improve cooperation with the Tribunal, swearing in new judges and hosting judges from other jurisdictions;

(j) Non-governmental organizations: responding to a few of the large number of requests for speakers and participation in seminars, conferences and symposiums on all aspects of judicial activity;

(k) Participation in activities within the United Nations system: annual speech by the President to the General Assembly and participation in meetings concerning the role of the Tribunal within the United Nations system.

Table 4
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2002-2003*	*2004-2005 (before recosting)*	*2002-2003*	*2004-2005*
Assessed budget				
Non-post resources	5 009.1	7 212.1	-	-
Total	**5 009.1**	**7 212.1**	**-**	**-**

36. The non-post resources amount to $7,212,100, before recosting, representing an increase of $2,203,000. The increase reflects the delayed impact of the addition of four new ad litem judges approved in 2003, including honorariums ($960,000), related common staff costs and retirement allowances for four judges who were not re-elected ($278,000) and travel. These resources will also provide for compensation and travel for nine permanent judges, two appeals chamber judges and two judges whose terms have been extended until the end of February 2004.

B. Office of the Prosecutor

37. This organ of the Tribunal is responsible for investigating and prosecuting persons responsible for serious violations of international humanitarian law under articles 2, 3 and 4 of the statute of the Tribunal.

38. The Prosecutor is responsible for establishing policies of the Office of the Prosecutor and for the overall executive direction of the work of the Office. The Prosecutor is based in The Hague and travels to Arusha and Kigali regularly to oversee and review the work of the investigation and prosecution teams.

39. The Deputy Prosecutor exercises the powers of the Prosecutor in her absence and is responsible for the management of the activities of the Office of the Prosecutor, the implementation of policy and strategy as directed by the Prosecutor and the maintenance of relations with the host Governments. The Deputy Prosecutor is also responsible for obtaining the support and assistance of States, particularly in Africa, in the conduct of the work of the Office.

40. The Investigations Division, based in Kigali, is headed by a Chief of Investigations, who is empowered to interrogate suspects, interview witnesses and victims, take statements from witnesses and gather evidence against presumed perpetrators of crimes falling under the jurisdiction of the Tribunal.

41. The Prosecution Division, on behalf of the Prosecutor, is responsible for the conduct of all prosecutions to the appeals stage and the supervision of investigations in coordination with the Investigations Division.

42. The activities of the Office of the Prosecutor in investigations and in pre-trial, trial and appellate work have continued unabated during the biennium. By the end of 2003, the Office of the Prosecutor anticipates that it will have presented six cases with 39 accused for the biennium. If the current pace is not interrupted, the number of cases brought to trial would be 25 cases involving 48 accused from the inception of trial activities up to 31 December 2005. This figure represents 51 per cent of the 81 confirmed indictments to date, or 76 per cent of the 64 persons arrested so far. During the biennium 2004-2005, the Office of the Prosecutor will continue to dedicate maximum effort to complete 26 new investigations and to produce an identical number of well-founded indictments from those investigations while continuing to try the most anticipated and complex cases to the end of 2005. Efforts will also be made to arrest the 17 persons still at large and at least another 3 of the expected 26 new targets for a total of 20 arrests.

43. The acceleration of the whole litigation process with due regard for the rights of the accused is a high priority for the Office of the Prosecutor. In 2004-2005, the Prosecution will engage in the concurrent trials of 10 cases involving 25 accused, including its 5 most complex cases: the 2 *Government* cases, the 2 *Military* cases

and the *Butare* case, with a combined total of 22 accused. This total represents 30 per cent of the 81 indictments confirmed to date.

44. In addition, the Office of the Prosecutor will, in consultation with the Registry, plan the transfer of about 40 dossiers to national jurisdictions that may include cases subject to rule 11 bis, which provides for the suspension of an indictment issued by the Office of the Prosecutor pending proceedings before national courts.

45. On the investigation side, the priorities of the Investigations Division have gradually begun to shift to more focused investigative work. During the biennium 2004-2005, the focus will be on the investigation of 26 selected targets, with the aim of completing these investigations to the indictment stage by the end of 2004. Equally important will be the trial support rendered to the Prosecution Division. As the Prosecution Division brings more cases to trial, the demand for trial support work increases significantly to occupy roughly 70 per cent of the Division's workload.

46. With regard to activities related to the tracking operations, various measures recommended by the Office of Internal Oversight Services have been put in place. These include initiatives to strengthen the management of missions, informants and all related payments. In the new biennium, the Division looks forward to implementing the necessary information technology to facilitate the implementation of these new operating guidelines.

47. During the period from January 2002 to July 2003, six persons were arrested. The Intelligence and Tracking Team is continuing its work in pursuit of the 17 persons still at large. Eight have been located, but attempts to arrest them have been unsuccessful due to lack of cooperation from certain Governments.

48. For the current biennium up to July 2003, the Prosecutor has been engaged in prosecuting 10 trials involving 23 accused, namely, *Ntakirutimana*, with 2 accused, *Cyangugu*, with 3 accused, *Kajelijeli*, with 1 accused, *Kamuhanda*, with 1 accused, *Media*, with 3 accused, *Butare*, with 6 accused, *Niyitegeka*, with 1 accused, *Semanza*, with 1 accused, *Military 1*, with 4 accused, and *Gacumbitsi*, with 1 accused.

49. The Office of the Prosecutor anticipates that at least another six new trials involving 16 accused will commence in 2003, namely, *Seromba*, with 1 accused, *Muvunyi*, with 2 accused, *Ndindabahizi*, with 1 accused, and *Military 2*, *Government 1* and *Government 2*, with 4 accused each.

50. If events proceed as anticipated above, the total number of cases prosecuted in 2002-2003 would be 16, with 39 accused. It is anticipated that a total of 8 cases (13 accused) will be completed by the end of 2003 and that the remaining 8 (with 26 accused) will be completed in the new biennium.

51. As at July 2003, three trials with four accused have already been completed (*Ntakirutimana*, *Niyitegeka* and *Semanza*). The five other cases, with nine accused, that the Office of the Prosecutor expects to complete by the end of the year are *Cyangugu*, *Kajelijeli*, *Media*, *Gacumbitsi* and *Kamuhanda*.

52. It should be noted that in the biennium 2004-2005, the most important and complex trials of the Tribunal would be continuing from 2003 and possibly running to the latter part of 2005. These are the *Butare* case (6 accused), the *Military 1* and *Military 2* cases (4 accused each) and the *Government 1* and *Government 2* cases (4

accused each). This will make the years 2004 and 2005 one of the busiest periods in the Tribunal's history.

53. The Office of the Prosecutor anticipates that judgements for a total of six cases involving nine accused will be handed down by the end of the current biennium. The Office of the Prosecutor has already obtained a conviction in the case of *Ntakirutimana*, involving two accused. The five others cases, involving seven accused, are *Semanza*, with one accused, *Niyitegeka*, with one accused, *Kamuhanda*, with one accused, *Kajelijeli*, with one accused, and the *Media* case, with three accused.

54. In the biennium 2002-2003, the Office of the Prosecutor was involved in numerous interlocutory appeals. There is one post-judgement appeal involving one accused (*Rutaganda*), which was still awaiting judgement as at April 2003.

55. Preparatory work has been initiated in expectation of appeals being lodged in respect of the *Ntakirutimana* judgement. The general trend so far has been that all convictions have been followed by the lodging of appeals. If the Office of the Prosecutor obtains convictions from the judgements expected to be handed down in respect of five other cases, with seven accused, then the Office of the Prosecutor could expect another seven new appeals from the 2003 caseload to be lodged in the biennium 2004-2005. *Butare*, *Military 1* and the two *Government* cases, with a combined total of 18 accused, are expected to conclude in 2004. It is possible that judgements in respect of these cases will be handed down in the next biennium, for a total of 18 potential appellants, increasing the number of potential appeals to 25 from 10 cases. This is a dramatic increase in workload for the Appeals Unit in addition to the interlocutory appeals. Appeals have already been lodged in respect of three judgements handed down in the first half of 2003. They are the *Ntakirutimana* judgement, involving two accused, the *Niyitegeka* judgement, involving one accused and the *Semanza* judgement involving one accused. Work has already begun on preparation of the defence of these judgements on appeal.

56. The development of the Office of the Prosecutor's completion strategy gained momentum with the recruitment of senior management. The work plan and budget for 2004-2005 have now been formulated with a view to implementing the Office's component of the completion strategy. The completion strategy aims to achieve two key objectives, namely: (a) the completion of all new investigations by the end of 2004; and (b) the acceleration of the preparation and presentation of cases.

57. To achieve these strategic objectives, the Office of the Prosecutor has developed a four-fold strategic approach:

(a) Optimal utilization of existing resources;

(b) Renewal and/or enhancement of resources to build new capabilities necessary to expedite the completion of each step of the litigation process;

(c) Maintaining and, wherever possible, improving collaborative relationships with Member States to facilitate the investigation and prosecution processes;

(d) Observance of the highest ethical and professional standards.

58. Using this approach, specific operating initiatives were introduced in 2002-2003 that will have a significant impact on the budget for the new biennium, including the deployment of a full complement of the Office of the Prosecutor staff to meet its human resources needs in the coming biennium. In view of the extensive workload of the Office of the Prosecutor in the coming biennium, it plans to alleviate the need for additional posts by:

(a) Continuing the effort, in close coordination with the Human Resources Section, to reduce the high vacancy rate in the shortest possible time. It is expected that the introduction of the new staff selection system will accelerate this process;

(b) Internal redeployment within the Office of the Prosecutor, including the redeployment of 10 Professional posts from the investigation area to strengthen the Trial Unit through the addition of a tenth trial team and to strengthen the Office's evidence and information support capacity during the period. The investigation teams will be restructured from three to two investigative units in line with the shifting focus of operations to be carried out by the Office of the Prosecutor in 2004-2005. Additional staff will be redeployed during the biennium based on an in-depth assessment to be made as the investigation phase nears completion;

(c) Substantial work has commenced on enhancing the capabilities of the Information and Evidence Support unit to enable it to deliver timely and effective information services to the Office of the Prosecutor and authorized third parties to facilitate key processes. Extensive work is being dedicated in the following areas:

(i) Consolidating the knowledge base of the Office of the Prosecutor;

(ii) Streamlining evidence-processing procedures;

(iii) Updating computer software and hardware;

(d) Training of the Office of the Prosecutor staff in the use of technology to help improve the pace and quality of work in areas such as the forensic analysis of documents, the management of intelligence sources and the continuing disclosure obligations, trial presentations and the analysis and publication of the developing jurisprudence.

Table 5
Objectives for the biennium, expected accomplishments and indicators of achievement

Objective: To meet the requirements of the Security Council with regard to the investigation and prosecution of persons who bear the highest responsibility for the violation of international humanitarian law in a fair manner and within a time frame that facilitates the implementation of the completion strategy.

Expected accomplishments	*Indicators of achievement*
(a) Effective management and implementation of the completion strategy	(a) (i) Number of indictments completed **Performance measures** 2002-2003 estimate: 155 2004-2005 target: 26 (ii) Number of prosecutions **Performance measures** 2002-2003 estimate: 21 accused 2004-2005 target: 26 accused (iii) Number of concurrent trials **Performance measures** 2002-2003 estimate: 10 2004-2005 target: 10
(b) Completion of new investigations	(b) (i) Number of completed investigation files submitted to support indictments **Performance measures** 2002-2003 estimate: 80 2004-2005 target: 26 (ii) Number of arrests **Performance measures** 2002-2003 estimate: 20 2004-2005 target: 20
(c) Facilitation of appeals to successful conclusion	(c) Number of appeals concluded **Performance measures** 2002-2003 estimate: 30 2004-2005 target: 23
(d) Transfer of dossiers to national jurisdictions	(d) Number of dossiers in preparation **Performance measures** 2002-2003 estimate: 0 2004-2005 target: 40

External factors

59. The Office is expected to meet its objectives and expected accomplishments on the assumption that:

(a) The security and safety of witnesses are protected;

(b) Member States, non-governmental organizations and the international community remain supportive of the overall mission and vision of the Tribunal;

(c) Member States cooperate in the arrest of indicted persons.

Activities

60. The activities of the Office of the Prosecutor during the biennium 2004-2005 will include the following aspects:

(a) Investigative: witness and expert witness statements, summaries of witness interviews, witness schedules and protective measures for witnesses; reports on the arrest of fugitives, intelligence related to suspects and fugitives, the collection of evidence relevant to investigations, trials and appeals and requests for assistance; witness binders; briefs of evidence for the submission of indictments; unofficial translations and English summaries of documentation in the local language; and indictment reviews;

(b) Prosecution: filings related to the prosecution of cases and appeals, including indictments and amended indictments; motions, responses to defence motions, witness statements, opening briefs, closing briefs, sentencing briefs, appeals on the merits, interlocutory appeals, plea agreements, miscellaneous applications for subpoenas, search warrants, the detention of suspects and the transmission of arrest warrants;

(c) Management: policy papers and directives, guidelines related to legal practice, annual reports, funding proposals and budget preparation; reports on activities of States relevant to cooperation; press releases, speeches, statements and briefings; and training of staff of the Prosecutor's Office.

Table 6
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2002-2003*	*2004-2005 (before recosting)*	*2002-2003*	*2004-2005*
Assessed budget				
Posts	40 097.4	40 541.9	221	221
Non-post resources	4 194.1	3 512.5	-	-
Staff assessment	7 008.9	7 075.4	-	-
Total	**51 300.4**	**51 129.8**	**221**	**221**
Extrabudgetary	152.0	174.9	-	-

61. Resources under posts and staff assessment in the amount of $40,541,900 and $7,075,400 respectively would provide for the continuation of 221 posts. The net increase of $444,500 for posts and $66,500 for staff assessment is a direct result of the delayed impact of 11 new posts approved for the biennium 2002-2003.

62. The total non-post resources requested in the amount of $3,512,500, before recosting, will provide for fees and travel of consultants and expert witnesses, official travel of staff and operational expenses. Decreases under non-post items amounting to $681,600 relate primarily to reduced requirements for travel of staff of the tracking and investigation units and are directly attributable to the shift in

strategic direction from investigation-based to trial-based, with a primary focus of bringing to completion all investigations by the end of 2004.

C. Registry

63. The Registry, one of the three constituent organs of the Tribunal, has two principal areas of responsibility, namely, judicial and legal services and administrative support services. It is composed of three organizational units, namely, the immediate office of the Registrar, the Judicial and Legal Services Division and the Administrative and Support Services Division. The resident auditors and investigators, while reporting directly to the Office of Internal Oversight Services, are also shown under the Registry for administrative purposes.

64. During the biennium 2004-2005, the Registry will focus on the implementation of a sound and realistic completion strategy the main objectives of which include: (a) providing support for the expeditious and fair trials of top-level accused; and (b) the transfer of middle- and lower-level cases to national courts.

65. With substantial progress made in the implementation of the teleconferencing link with the International Criminal Tribunal for the Former Yugoslavia, it is anticipated that greater cooperation and exchange of information will be achieved in 2004-2005, which in turn would assist various sections of the Tribunal in conducting interviews with experts as well as potential and established witnesses. The new link, once fully operational, will help the Registry to respond to the various needs of the Chambers with enhanced efficiency and reduced response time. Accordingly, the travel-related costs of the Chambers, the Office of the Prosecutor and the Registry are proposed at the minimum level on the assumption that the video link will replace various travel that would otherwise be required.

Table 7
Objectives for the biennium, expected accomplishments and indicators of achievement

Objective: To ensure appropriate and successful implementation of the Tribunal's legal and administrative support activities in compliance with the regulations and rules of the United Nations and with a view to supporting the completion strategy.

Expected accomplishments	*Indicators of achievement*
(a) Timely implementation of actions taken pursuant to the completion strategy	(a) Number of actions completed on time **Performance measures** 2002-2003 estimate: not applicable 2004-2005 target: 12
(b) Strengthened cooperation of Member States on enforcement of sentence matters	(b) Number of new memorandums of understanding concluded with Member States

Expected accomplishments	*Indicators of achievement*
	Performance measures 2002-2003 estimate: 4 2004-2005 target: 4
(c) Increased public awareness of the work of the Tribunal	(c) Number of inquiries with respect to the work of the Tribunal **Performance measures** 2002-2003 estimate: 4,500 inquiries 2004-2005 target: 6,000 inquiries
(d) Timeliness of proceedings	(d) Reduction in delays in the distribution of judicial documents **Performance measures** 2002-2003 estimate: 72 hours 2004-2005 target: 48 hours
(e) Improved dissemination of judicial records to the parties and indirectly to the public through the Internet	(e) (i) All judicial records filed with Registry are received, filed, copied and digitized within a 24-hour period (ii) All public judicial records are available through the Tribunal's web site within 10 working days **Performance measures** 2002-2003 estimates: judicial records are processed within 48 to 72 hours and placed on the web site within 6 months 2004-2005 target: judicial records are to be processed within 24 hours and placed on the web site within 10 days
(f) Enhanced and effective legal and administrative support to the judicial process, responsive to the needs of the Chambers and the parties	(f) Schedules for court proceedings are observed **Performance measures** 2002-2003 estimate: 100 per cent of the scheduled court proceedings are observed 2004-2005 target: 100 per cent of the scheduled court proceedings are observed

Expected accomplishments	*Indicators of achievement*
(g) Faster turnaround time for decisions and orders after the conclusion of pleadings	(g) Maximum deadline of five days after initial deliberations of the first draft **Performance measures** 2002-2003 estimate: 6 days 2004-2005 target: 5 days
(h) Strengthened services provided to staff, Member States, vendors and other entities	(h) Increase in client's satisfaction level with respect to the accuracy and quality of services provided **Performance measures** 2002-2003 estimate: 65 per cent 2004-2005 target: 90 per cent
(i) Reform of the legal aid system	(i) Reduction in the number of cases for which payments are in excess of agreed-upon thresholds **Performance measures** 2002-2003 estimate: not available 2004-2005 target: not available

66. The Office of the Registrar will focus on the following activities during the biennium 2004-2005:

(a) Providing policy guidance and executive direction for the coordination and implementation of a sound and realistic completion strategy;

(b) Providing consistently effective judicial support services to the Chambers and the Office of the Prosecutor, undertaking continuous review of reforms already in place and carrying out a regular consultative process with the judges and the Prosecutor in this context;

(c) Resolving, in cooperation with the Office of Legal Affairs at Headquarters, legal and practical problems with regard to the enforcement of sentences and supervising the practical enforcement of sentences in countries that have signed agreements with the United Nations for that purpose;

(d) Monitoring the implementation by relevant parts of the Registry of measures to eliminate abuses of the legal aid system of the Tribunal;

(e) Sustaining and improving the level of cooperation and political and operational support for the Tribunal by external counterparts such as Governments and non-State entities;

(f) Formulating and implementing an aggressive strategy for mobilizing resources for the trust fund for the Tribunal for the execution of important projects that are key to the discharge of its mandate;

(g) Continuing systematic efforts to improve the image and visibility of the Tribunal through the effective dissemination of public information and the accurate projection of its work at appropriate levels, as well as the conduct of appropriate

programmes for visitors to the Tribunal, who are frequently high-level individuals and institutions.

67. The Judicial and Legal Services Division will:

(a) Provide direct judicial assistance to the trial chambers and the appeals chambers, such as legal research, drafting and other judicial support; preparation of the judicial calendar, maintenance and scheduling of courtrooms; and the recording, maintenance and registration of records of judicial proceedings, transcripts, motions, orders, decision, judgements and sentences;

(b) Other court-related functions of the Division will include the provision and maintenance of the detention facilities; the development and maintenance of a list of defence counsel; the establishment and maintenance of a system to remunerate defence counsel; and assistance to prosecution and defence witnesses testifying before the Tribunal.

68. The Administrative and Support Services Division will provide services for all activities of the Tribunal in the areas of human resources management; budget and finance; general services; transport; information technology; security and safety; procurement; and building management. It will also continue to provide services of the Health Services Unit and to support the services of the United Nations Detention Facility.

Table 8
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2002-2003*	*2004-2005 (before recosting)*	*2002-2003*	*2004-2005*
Assessed budget				
Posts	84 228.0	86 559.2	760	763
Non-post requirements	49 342.1	49 447.2	-	-
Staff assessment	14 083.0	14 420.5	-	-
Total	**147 653.1**	**150 426.9**	**760**	**763**
Extrabudgetary	2 216.6	2 549.0	-	-

69. The amount of $150,426,900 provides for the continuation of 763 posts, including the conversion of three posts (2 P-4 and 1 P-3) from general temporary assistance to temporary posts under the Office of Internal Oversight Services, as well as various non-post items. The resource growth under posts ($2,331,200) and staff assessment ($337,500) reflects the delayed impact of 98 posts approved for the biennium 2002-2003 and the conversion of the three Office of Internal Oversight Services posts previously funded from general temporary assistance. The increase in non-post requirements ($105,100) includes increases for the upgrading of prison facilities to international standards ($250,000), travel of staff ($321,600) and the Tribunal's share in the coordination of United Nations security measures ($330,400), offset by decreases for furniture and equipment and improvements to premises.

Table 9

Definitions as per the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation

An *objective* in programme budgeting refers to an overall desired achievement involving a process of change and aimed at meeting certain needs of identified end-users within a given period of time.

An *expected accomplishment* is a desired outcome involving benefits to end-users, expressed as a quantitative or qualitative standard, value or rate. Accomplishments are the direct consequence or effect of the generation of outputs and lead to the fulfilment of a certain objective.

Indicators of achievement are used to measure whether and/or the extent to which the objectives and/or expected accomplishments have been achieved. Indicators correspond either directly or indirectly to the objective or the expected accomplishment for which they are used to measure performance.

External factors are events and/or conditions that are beyond the control of those responsible for an activity but that have an influence on the success or failure of the activity. They may be anticipated in the form of assumptions or they may be unanticipated.

Outputs are final products or services delivered by a programme or subprogramme to end-users, such as reports, publications, training, servicing of meetings, or advisory, editorial, translation or security services, which an activity is expected to produce in order to achieve its objectives.

Table 10
Summary of follow-up action taken to implement relevant recommendations of the Advisory Committee on Administrative and Budgetary Questions

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
Advisory Committee on Administrative and Budgetary Questions A/54/646	
The Advisory Committee recommended that the Tribunal discuss the difficulties of the lack of expertise in the local market with the relevant host government authorities with a view to seeking advice and assistance in obtaining additional local staff (para. 16).	Ongoing in 2003. The Tribunal advertises vacancies throughout the United Republic of Tanzania in a continuing effort to recruit local staff. Testing is done every month in Arusha for persons interested in applying for vacancies. Recently, as part of a special campaign, testing was done in Dar es Salaam for more than 300 applicants. The Tribunal will continue the process of contacting local and regional authorities to seek their advice and guidance on how best to find qualified local staff to fill the vacancies of the Tribunal at all levels. In this regard, since 1999 the Tribunal has been liaising with the United Nations Development Programme office in Dar es Salaam to expand its market coverage for local staff recruitment.
The workload indicators need to be further refined and analysed; the result of such analysis should become the basis for supporting the level of resources requested (paras. 23 and 31).	The Tribunal has for some time used the analysis of workload indicators to estimate future resource requirements. These workload indicators, statistics maintained by every programme manager and the logical results-based budgeting framework, coupled with the modalities of the completion of the strategy of the Tribunal, are the cornerstones in formulating the budget proposal for 2004-2005.
A/56/666	
The Advisory Committee recalled that, in the context of its consideration of the proposed budget for the Tribunal for 2001, it was informed that the nature of investigation had changed; all targets had been identified, and the priority was the investigation of fact and the indictment, tracking and arrest of suspects. The Committee understands that the functions of the Kigali office are now mainly concerned with tracking. Accordingly, the Committee had expected a clearer indication in the budget	It is not correct to say that the Kigali office is now mainly concerned with tracking. In addition to tracking suspects who have been indicted and against whom arrest warrants have been issued, the Kigali office is continuing with 26 new investigations that the Prosecutor plans to complete by the end of 2004. The decision to complete investigations by the end of 2004 will accelerate the investigative activities of the Kigali office, after which reductions will be effected. The decision to conduct five or six

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
estimates of the results of a rigorous review of the administrative and support services and related expenditures of the Kigali office, as well as an indication as to whether the proposals for the transfer of posts involving Kigali were the result of the review. The Committee requests that such information be included in the next budget estimates (para. 18).	trial sessions simultaneously as from June 2003 requires an increase in human resources. No new posts are being requested to meet this demand during the biennium 2004-2005. Redeployments will take place as the investigations are completed, with some posts given to areas outside of the Office of the Prosecutor. The completion of investigations at the end of 2004 does not mean that all the indicted suspects will have been arrested by then. There will still be work for the tracking team, which will continue to exist for as long as there are suspects still at large. Decisions to transfer posts to Arusha from time to time are based on the consideration of the completion strategy and the need for increased trial activities and trial support. As the Chambers increase trial sessions as from June 2003, there will be greater demand for case managers, trial attorneys, legal advisers, evidence analysts and others in Arusha. The Office of the Prosecutor has considered that this need shall be met only through the redeployment of posts that become free in Kigali.
The Committee considered the courtroom usage to be somewhat low and trusted that as the pace of trials and other judicial activities increased, the level of productivity would also rise. In this regard, the Committee welcomed the information that, in the courtroom, the judges worked for longer hours and that their court workweek had been increased from four days to five (para. 24).	The judges do the work of the Chambers outside the actual trial chambers as well as within. The work outside the trial chambers may often shorten the work inside. Examples are the informal scheduling and status conferences with the parties and with the Tribunal staff that expedite the hearings before and after they begin.
The Committee requested that a review be made of the twin-tracking method of scheduling multiple trials in each of the three chambers with a view to ascertaining whether the method was indeed cost-effective (para. 25).	If twin-tracking is a consistent policy, then it can have disadvantages when there is more than one large case involved comprising several accused. Twin-tracking may be effective when there are smaller cases that can be interposed between the natural pauses in other, larger cases. Large cases that occupy long periods of Tribunal time are the more serious general problem. Counsel for the accused persons cannot suspend their other practice commitments to spend very long periods in Arusha; there have to be breaks. It is in those breaks that tracking more than one case comes into its own. In a small case involving one

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	accused, with perhaps 15 prosecution witnesses, the prosecution case can be inserted into the break in a larger case and the defence case can be inserted into the following break. The important problem to be avoided is the twin-tracking of more than one large case. Usually if two smaller cases are ready for trial, it pays to hear them sequentially. Sometimes, however, even smaller cases have natural breaks, such as those necessitated by the search for evidence to rebut the other party's case or the break before closing arguments. More obviously, one small case and one large case can twin-track to advantage. Experience suggests that tracking more than two cases is not advisable. Generally, the use of twin-tracking from the judicial point of view is necessary for the efficient use of court time, but it is important that it be used with common sense and care.
The Committee requested that information on the effectiveness of missions and the overall performance of the intelligence and tracking unit be included in future performance reports and estimates (para. 35).	The Intelligence and Tracking Team was created in 1996 in order to tackle the issue of massive departure of suspects and witnesses scattered all over the world after the genocide of 1994. The Team has played a crucial role in locating and arresting more than 52 suspects and accused persons in 20 countries in Africa, Europe and North America. Of the total of 62 accused presently at the Tribunal's detention facilities in Arusha, 84 per cent were jailed as a result of the Team's activities. Among some of the accused arrested by the Team are the Prime Minister, Jean Kambanda, as well as two thirds of the ministers in his Cabinet. Many high-ranking officers of the Rwandan Armed Forces, including the Chief of Staff, General Augustin Bizimungu, have also been arrested. The Intelligence and Tracking Team has also made a significant contribution in developing high-profile witnesses and obtaining plea bargains from accused persons such as Jean Kambanda, Omar Serushago and Georges Ruggiu. In this process a considerable amount of resources that would have been spent on three trials (at an average of two years'

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	duration for a trial) has been saved by the Tribunal's Intelligence and Tracking Team. For 2002-2003, only eight persons have been arrested so far due to the lack of cooperation by some countries. In fact, this will affect the Tribunal's global workload (i.e., 20 potential suspects for arrest in 2004-2005).
The Committee was informed that the construction of the new archive facility in Arusha for the storage of evidence and documents was nearly complete. The Committee welcomed this measure to protect the records of the work of the Tribunal. Furthermore, the Committee requested that, in the context of the next budget submission, a long-term plan be formulated for the disposition and preservation of the records of the Tribunal (para. 53).	The long-term preservation and disposition of the Tribunal's judicial records has been an ongoing priority of the Court Management Section. The approach has been based on several initiatives and other internal and external factors. All decisions have been based on the two imperatives of the daily requirements of users (both public and internal) and the longer-term community expectations for eventual research value. It should also be noted that our responsibility is only in the area of judicial records. The initiatives and other factors alluded to above are as follows: • Cooperation between the International Criminal Tribunals for the Former Yugoslavia and for Rwanda • Mutually beneficial interaction between the Archives and Records Management Section at Headquarters • Ongoing projects financed by the trust fund to address day-to-day requirements, but also ensuring long-term viability of the judicial archives • The availability of additional funds expected from the European Union for the conversion of file formats of the digitized judicial records • Daily user requirements of the parties to proceedings and other more intangible influences **Steps taken** *Digitization of judicial records and database* In a sense, the digitization of judicial records begun in 2000 has been a positive step towards

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	the preservation of the collection. It has provided a ready back-up of the entire collection of judicial documents. It has allowed the staff of the Judicial Records and Archives Unit of the Court Management Section to minimize the physical handling of records, thereby reducing the wear-and-tear problem paper records have. The digitization of the records also allows for the timely transfer of records to archival storage in New York, as there is a virtual copy of the records of closed cases in the electronic database. Cases can be transferred in phases rather than when the Tribunal has finished its work. It is anticipated that initially eight closed cases will be able to be transferred by the end of 2003 and thereafter three to five completed cases on average each year. This of course depends on the caseload of the Chambers and the completion rate. *Disposal authority* The disposal authority document, which was recently reviewed and approved by the Archives and Records Management Section at Headquarters, gives the Tribunal a technical basis on which to transfer records to the custody of the Section. It details the process involved and stipulates which category of judicial records will be deposited in the Section's archival repository in New York. On the basis of that document, there is a clear understanding that the disposition of judicial records of the Tribunal will be achieved. It is worth recalling that, at the request of the management of the Tribunal, the Office of Legal Affairs at Headquarters provided, by a letter dated 22 May 2000, the following advice regarding the custody of the archives of the Tribunal following its eventual wind-up: "The archives of the Tribunal are archives of the United Nations. Absent any decision by the Security Council to the contrary, they will accordingly, upon the winding-up of the Tribunal, become the responsibility of, and be transferred to, the United Nations Archives and Records Management Service of the Office of Central Support Services, pursuant to ST/SG/242 and ST/AI/326 (...),

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	at least as things now stand. As far as the regime for the management, utilization, preservation and disposition of the Tribunal's records is concerned, these might conceivably be the subject of specific decisions by the Security Council when the Tribunal is wound up."
	Training
	The training initiatives undertaken by the Court Management Section have provided theoretical and practical skills to record-keeping staff to ensure that they maintain and use the judicial records collection in a manner conducive to its long-term preservation. All staff now have a common understanding of the importance of the issues surrounding preservation. It is foreseen that regular refresher training will be organized to maintain the level of awareness of all staff.
	Off-site storage and risk management
	With respect to electronic data-processing and management information system operations, an off-site storage area is being constructed. This will allow any copies to be separated from originals, thereby addressing the issue of risk management. In the event of an emergency, any damage to the judicial records would be minimized.
	Audio-visual collection
	As part of its sustained collaboration with the Tribunal, the Archives and Records Management Section commissioned a consultancy to look into the handling of the Tribunal's audio-visual collection. The recommendations made by the consultant in its report submitted in May 2002 are still being implemented.
	The entry on duty of an audio-visual archivist, expected by the end of June 2003, would allow further improvement of the strategy for migrating or transferring to other storage media of the audio-visual collection and the time frame involved. This will ensure to a large degree the longevity of this fragile material.

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	In the meantime, the environmental storage conditions of the collection were addressed in 2002, and there is now a climate-controlled audio-visual storeroom.
The Advisory Committee notes that interns perform a variety of functions for the Tribunal, including conducting research and providing assistance to trial judges and attorneys in the Office of the Prosecutor. The Committee welcomes the information provided to it on the programme and requests that future reports include details, by unit, on how interns are used (para. 60).	The Office of the Prosecutor uses experienced lawyers for conducting trials, writing briefs, directing investigations and generally managing cases. However, it makes extensive use of interns to do research on a number of legal issues in international criminal law and humanitarian law. To a small extent, the Office of the Prosecutor has used interns who have the necessary practical experience to analyse evidence. This is done in conjunction with assistant trial attorneys and legal advisers. Occasionally trial teams have used Kinyarwanda-speaking interns as trial support translators and analysts of materials and evidence.
The Committee recommends that a review be made of the cost-effectiveness of using translation capacities in the United Nations system by remote means (para. 93).	The language services section has been looking at outsourcing as a means of better coping with the increased workload anticipated for 2004-2005. In that respect, it has reviewed the cost-effectiveness of using a freelance reviser (RIII) charging €50 per translated/revised page (the current rate charged in Paris and The Hague on the freelance market), as compared with the cost to the United Nations of a staff reviser at the P-5 level, and has found out that, based on an average daily output of 15 standard pages for both, the staff reviser, whose cost is $191,400 a year, $15,950 a month or $733.33 a day per 15 pages, is slightly less costly than the independent reviser, who would be paid by the United Nations €50 x 15 = €750 or, $825 (at an exchange rate of €1:$1.10). It is assumed that the same would go for all other categories of staff translators and revisers as compared with independent translators/revisers, although the review focused on revisers, which would be the main category of staff targeted by the language services section because of the revision requirement that would be entailed by the use of external translators (as opposed to self-revising translators) at a time when the Tribunal is sorely short of revising staff.

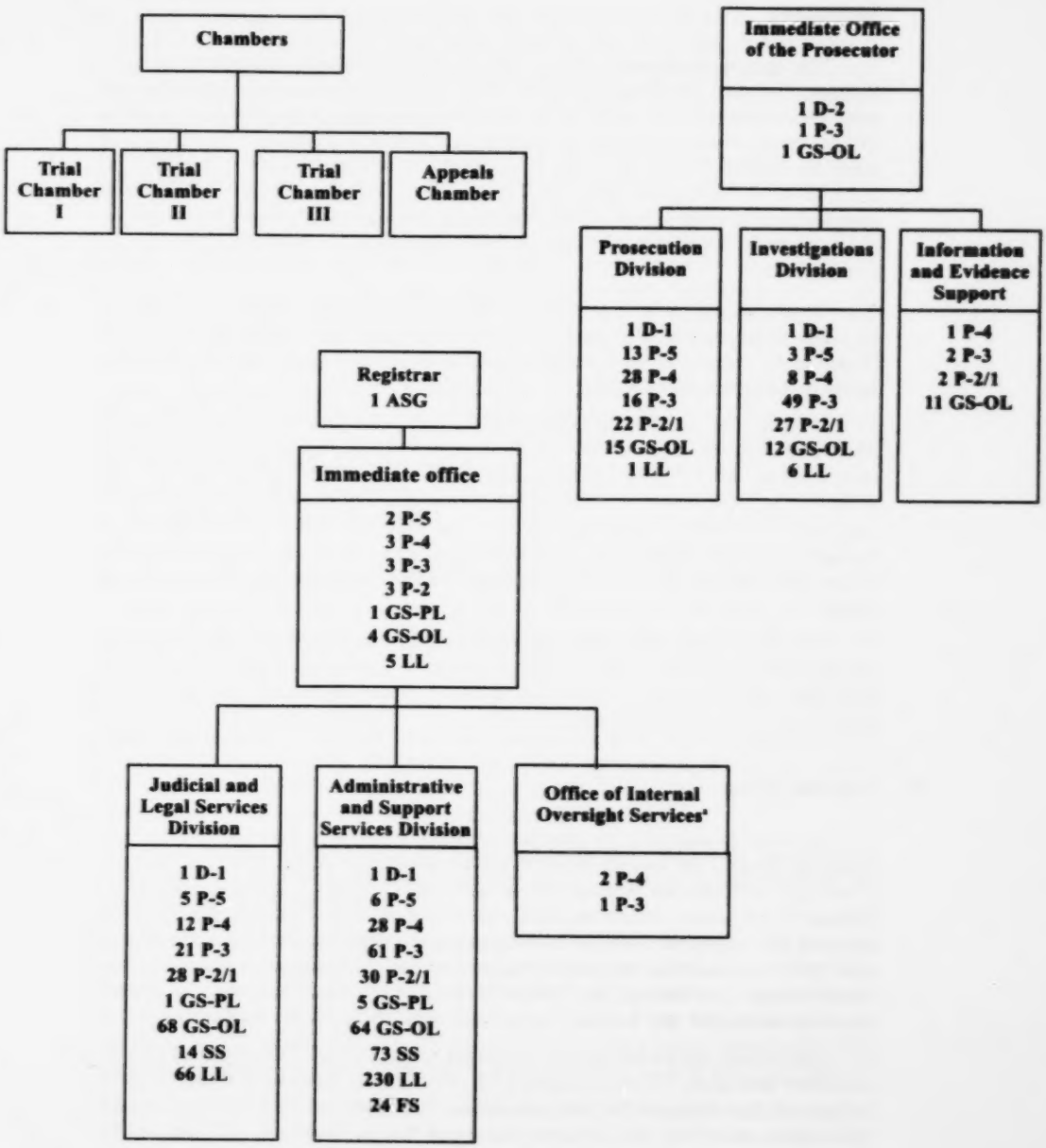
Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	Efforts are also being made to obtain assistance from the United Nations Office at Nairobi and other offices in the United Nations system to increase remote translation capabilities. Decisions will be taken based on cost comparisons and timeliness. In addition to the higher cost involved in outsourcing, the following criteria are to be taken into consideration: (a) Staff translators/revisers are more reliable than independent translators/revisers that are called upon to serve several masters and are not always available when they are needed. This is all the more true for the International Criminal Tribunal for Rwanda, as Arusha is located thousands of miles away from Paris, Geneva, Brussels and London, where the seasoned revisers we are looking for are based; (b) Staff translators/revisers are generally more conversant with the work of the Tribunal, which means that dollar for dollar they are more efficient than independent translators/revisers that are known to keep changing subject matter with every contract with their various employers; (c) Outsourcing is simply not a workable proposition for those translators/revisers working into and from one of the Tribunal's languages, namely, Kinyarwanda and French. Indeed, these are not available on the international freelance market for the simple reason that there is no translation/interpretation training programme offering courses in that language combination. As a matter of fact, the language services section's Kinyarwanda translators, interpreters and revisers have so far been trained in-house to serve the Tribunal's purpose.

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
A/57/593	
The Advisory Committee requests that a timetable for implementation of the completion strategy of the Tribunal and precise information on plans to hand over cases for trial by national or third country jurisdiction be provided in the next budget estimates, together with information on the financial implications and the time frame for any expenditures involved (para. 22).	*Cases that the Prosecutor may refer to national jurisdictions* The strategy of the Office of the Prosecutor is to prosecute before the Tribunal those perpetrators of the genocide who played a leading role in its planning and execution and those targets who, although they played no leadership role and held no positions in any hierarchies, nevertheless committed notorious acts that stand out because of their seriousness. The strategy envisages that those cases which do not fall within this definition but which are sufficiently serious to merit prosecution will be transferred, in terms of rule 11 bis, to national jurisdictions for trial. So far, the Office of the Prosecutor has identified about 40 cases that could be transferred to national jurisdictions. The number is likely to change depending on the results of the investigations of the 26 new targets referred to above. There may be, among the 26 targets, those that do not merit trial before the Tribunal. The Office of the Prosecutor will transfer, in some instances, cases for which investigations have been completed and which are trial-ready and, in other instances, dossiers requiring further investigation by the receiving country. The latter will happen particularly in respect of those countries in which some of the targets are already resident. The Office of the Prosecutor plans to transfer the bulk of these cases to Rwanda for trial. At the moment, transfer to Rwanda is made difficult by the fact that Rwandan law allows the imposition of the death penalty. The Office of the Prosecutor has started discussions with various States with a view to securing agreements with them to take and prosecute some of the cases falling under rule 11 bis. It is not in the interest of the success of those discussions to mention the names of the States being approached at this stage. The Office of the Prosecutor anticipates that some

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	agreements will have been concluded with some of the States by the middle of 2005. The costs to be incurred during the biennium regarding the transfer of cases to national jurisdictions will largely be costs related to travel and negotiation with relevant States. The Office of the Prosecutor hopes to start transferring cases to national jurisdictions by the beginning of 2006. The financial implications will be addressed in the context of the proposed budget for the biennium 2006-2007. The Office of the Prosecutor will not transfer any of the cases to States whose penal codes allow the imposition of the death penalty. However, it will negotiate with such States for the abolition or the non-application of that penalty in cases that are to be transferred. In the event that it is not possible to transfer some of the cases to national jurisdictions, the Prosecutor plans to return to the Security Council and make alternative proposals. It is too early to put those proposals on paper at this stage.

International Criminal Tribunal for Rwanda

Organizational structure and post distribution



[a] New posts converted from temporary assistance resources.

Annex

Completion strategy of the International Criminal Tribunal for Rwanda

Summary

1. The present document outlines the completion strategy of the International Criminal Tribunal for Rwanda based on the information presently available and provides estimates of relevance to the budgetary proposals of the Tribunal. Trials of 21 persons are either completed or at the stage of closing arguments; 10 persons are currently on trial; 4 trials involving 10 accused will commence in the second half of 2003; trials involving the remaining 21 detainees will start from 2004 onwards, depending on the availability of trial chambers. In addition, 17 indicted persons are still at large. It is probable that some of them may never be apprehended, and others may be dead.

2. The Prosecutor intends to complete the 26 remaining investigations by the end of 2004, which could result in a maximum of 26 new indictments by July 2005. However, the number of trials will be less because some of these persons may not be found or may not even be alive.

3. With four ad litem judges supplementing the trial chambers from September 2003 onwards, the trials of the 41 detainees at trial or awaiting trial could be completed by 2007. Trials of the maximum of 17 indictees that are still at large could be completed by 2009. Trials of the maximum of 26 suspects who have not yet been indicted could be completed by 2011. However, the number of persons to be brought for trial from these two groups will most probably be less than 43. The trials at the International Criminal Tribunal for Rwanda may therefore be completed earlier.

4. The completion of the Tribunal's mandate will be expedited if the number of ad litem judges allowed to sit at any one time is increased from four to nine and if they can adjudicate over pre-trial matters. These proposals would require amendment of the Tribunal's statute.

I. Introduction

5. In order to complete its mandate within a reasonable time the International Criminal Tribunal for Rwanda needs to further develop its completion strategy. Such a strategy will provide a basis for gauging the budgetary requirement for the Tribunal's resources, allocating and redirecting resources within the Tribunal, planning the individual listing of cases, guiding the parties in their planning of their case readiness, assisting the various departments of the Tribunal in allocating their resources and facilitating the Tribunal's work in making decisions on human resources issues that will become increasingly pressing as closure approaches.

6. The present document has been prepared notably within the context of General Assembly resolution 57/289, paragraph 15 (a) of which provides that the proposed budget of the Tribunal for the biennium 2004-2005 should include detailed information as to how the resources requested for the biennium will support the development of a sound and realistic completion strategy.

7. The completion strategy has been progressively elaborated on, based on consultations and contributions, among the three organs: the Chambers, the Prosecution, and the Registry. The basis for the consultations was a document entitled "Completion Strategy of the Office of the Prosecutor", containing developments as at 29 April 2003.

8. The document sets out projections that have been premised on information available as at 7 July 2003. It is evident, however, that the process of pursuing a completion strategy is a continuous one that must allow for modifications as the cases are heard and practice develops. Revised and updated versions of the strategy will be submitted as the need arises.

9. Since the first trial started in January 1997, the Tribunal has handed down 11 judgements involving 13 accused. Of those, 12 were convicted and 1 acquitted. Six of them are presently serving their sentences in Mali. The remaining six are still in the detention facilities in Arusha, of which three are awaiting decision on their appeals and three remain as witnesses in ongoing cases. In four trials involving eight accused, all the evidence has been presented and closing arguments are to be presented in July and August 2003. By the end of 2003, it is therefore expected that the Tribunal will have delivered four judgements involving eight accused, bringing the total result of the second mandate to nine judgements involving 14 accused.[a] This is a doubling of the number of accused that have been tried compared with the first mandate (1995-1999). Consequently, the Tribunal will, by the end of 2003, have rendered 15 judgements involving 21 accused since the first trial started in 1997 (following the arrival of the first accused in Arusha in May 1996). As at July 2003, three cases were on appeal (Elizaphan and Gérard Ntakirutimana; Eliézer Niyitegeka; and Laurent Semanza).[b]

10. In addition to the 21 accused whose trials have either been completed or are at the stage of closing arguments, 41 detainees in the United Nations detention facilities in Arusha are either engaged in trial or awaiting trial. As at 30 June 2003, trials in the *Butare* case (6 accused) and the *Military* case (4 accused) were in progress. Both cases are quite voluminous and are at a relatively early stage. Moreover, it is expected that 4 trials involving 10 accused will start in the second half of 2003, partly as a consequence of the arrival of the newly elected ad litem judges (see para. 18 below). It is therefore anticipated that 20 of the remaining 41 detainees will be on trial by the end of 2003. The remaining 21 accused will have their cases heard when the Tribunal's capacity allows. One or two cases involving a single accused person may commence in the first months of 2004.

11. Furthermore, 17 accused are at large. It may well be that some of them are dead or may not be found. The actual number of these persons actually brought to trial may therefore be less than 17.

12. The Prosecutor's strategy is to prosecute before the Tribunal those persons bearing the highest responsibility for the crimes committed in Rwanda in 1994. The Prosecutor is currently investigating 26 suspects and intends to complete these investigations by the end of 2004. She has indicated that at this stage it is uncertain how many of the targets will actually result in indictments being submitted to the judges for confirmation. The indictments will be submitted no later than July 2005.

13. Moreover, the Prosecutor has identified about 40 other persons that could be tried by national jurisdictions and is currently engaged in discussions with some

States for this purpose. In the event that it is not possible to transfer some of these cases to the national level, the Prosecutor plans to return to the Security Council to make alternative proposals.

II. Trials in progress

14. During the Tribunal's second mandate, the most voluminous case heard by trial chamber I has been the so-called *Media* case, involving three accused (Barayagwiza, Nahimana and Ngeze). The trial started on 23 October 2000. The parties have closed their cases and closing arguments will be heard in August 2003. Judgement is expected by the end of 2003. Originally, the *Media* case was being tried in parallel with judgement-writing in the *Bagilishema* case, in which judgement was delivered on 7 June 2001. It was twin-tracked with the trial of Gérard and Elizaphan Ntakirutimana, which began on 18 September 2001 and concluded with a judgement on 19 February 2003. The *Media* case was then twin-tracked with the *Niyitegeka* trial, which started on 17 June 2002 and concluded with judgement on 16 May 2003.[c] As at 30 April 2003, the *Media* trial had lasted for 235 court-days over a period of two years and five months. Following the commencement of the third mandate, trial chamber I has been reconstituted and sits on the continuation of the *Military* case, transferred from trial chamber III.

15. Trial chamber II has been engaged in three trials concurrently. The *Butare* trial started on 11 June 2001 and has so far been conducted over 107 trial-days. One of the judges in this chamber did not have his mandate extended for the purpose of enabling him to continue sitting on the *Butare* case. At the time of this writing, it is being considered whether the trial should continue with a substitute judge under rule 15 bis of the Rules of Procedure and Evidence ("the Rules") or whether it should start anew. The trial includes six accused (Kanyabashi, Nyiramsuhuko, Ntahobali, Nsabimana, Nteziryayo and Ndayambaje) which is the largest number tried in the Tribunal's calendar. A recommencement of the trial will influence the completion strategy, but it may be possible to reduce the loss of time to less than 107 days. The *Kajelileli* trial started on 12 March 2001, and the *Kamuhanda* trial commenced on 17 April 2001. The hearing of evidence in both cases has now been completed and, after closing arguments, judgements in those cases are expected to be rendered before the end of 2003.

16. Trial chamber III has been hearing three trials concurrently. The *Cyangugu* trial, involving three accused (Bagambiki, Imanishimwe and Ntagerura), started on 18 September 2000. Judgement in that case is expected by December 2003 or at the very latest by February 2004. The *Semanza* trial commenced on 16 October 2000, and judgement was given on 16 May 2003. On 2 April 2002, the chamber also started the *Military* case, involving four accused (Bagosora, Nsengiyumva, Kabiligi and Ntabakuze) and heard evidence over 32 trial-days. Following the reconstitution of the chambers in early June 2003, this case is now being heard by trial chamber I.

17. The time needed to complete the ongoing trials is summarized in table A.1 below. In the *Butare* case about 65 prosecution witnesses will be called requiring an estimated 330 hours for the presentation of the prosecution case-in-chief. For the *Military* trial, it is assumed that about 100 witnesses will be called by the prosecution, totalling an estimated 500 hours for its examination-in-chief. Hence,

these two cases, involving a total of 10 accused, will be time-consuming. It is difficult to envisage whether judgements will be delivered before 2005.

Table A.1
Trials in progress

Accused	*Function*	*Case*	*Estimated completion date*
A. Nteziryayo	Prefect of Butare	*Butare*	2005
S. Nsabimana	Prefect of Butare	*Butare*	2005
P. Nyiramasuhuko	Minister of Family and Women's Affairs	*Butare*	2005
E. Ndayambaje	Bourgmestre of Muganza	*Butare*	2005
J. Kanyabashi	Bourgmestre of Ngoma	*Butare*	2005
A. S. Ntahobali	Interahamwe leader	*Butare*	2005
T. Bagosora	Director of Cabinet, Ministry of Defence	*Military I*	2005
G. Kabiligi	Brigadier General, FAR	*Military I*	2005
A. Ntabakuze	Battalion Commander, FAR	*Military I*	2005
A. Nsengiyumva	Lieutenant Colonel, FAR	*Military I*	2005

FAR: Forces armeés rwandaises.

18. Following the Tribunal's request of 9 July 2001, the Security Council adopted resolution 1431 (2002), in which it approved the creation of a pool of 18 ad litem judges. The purpose of this reform, which followed a similar Security Council resolution on the International Criminal Tribunal for the Former Yugoslavia in 2000, is to increase the Tribunal's judicial capacity. The election of the 18 ad litem judges by the General Assembly took place on 25 June 2003. The Tribunal is authorized to use a maximum of four such judges at any one time. The arrival of these ad litem judges, probably from September onwards, will enable one trial chamber to split into two sections, each including both permanent and ad litem judges.

III. Trial-ready cases

19. As mentioned above, four cases involving 10 accused are ready for trial. The *Gacumbitsi* trial commenced on 28 July 2003. The *Ndindabahizi* case will probably commence in September, followed by *Nzirorera et al.* and *Bicamumpaka et al.* (often referred to as the *Government* cases), where counsel have been requested to be ready for trial from 15 October 2003 onwards. The exact dates of commencement of these three trials depend on the availability of trial chambers. This includes factors such as the completion of the presentation of prosecution and defence evidence in the relatively short *Gacumbitsi* and *Ndindabahizi* trials and the

availability of ad litem judges, who will sit in at least two of the three cases. At this stage, it is difficult to estimate the end of the trial proceedings in the voluminous *Government* cases. The situation can be summarized as shown in table A.2.

Table A.2
Trial-ready cases*

Name	*Former title*	*Initial appearance*	*Estimated end of trial*
S. Gacumbitsi	Bourgmestre of Rurumo	20 Jun. 2001	2003
E. Ndindabahizi	Minister of Finance	19 Oct. 2001	2003
J. Nzirorera	President of National Assembly, Secretary-General, MRND	7 Apr. 1999	2004-2005
E. Karemera	Minister of Interior, Vice-President, MRND	7 Apr. 1999	2004-2005
A. Rwamakuba	Minister of Education	7 Apr. 1999	2004-2005
M. Ngirumpatse	Director-General of Ministry of Foreign Affairs; President, MRND	7 Apr. 1999	2004-2005
J. Bicamumpaka	Minister for Foreign Affairs	17 Aug. 1999	2004-2005
C. Bizimungu	Minister of Health	3 Sep. 1999	2004-2005
J. Mugenzi	Minister of Commerce	17 Aug. 1999	2004-2005
P. Mugiraneza	Minister of Civil Service	17 Aug. 1999	2004-2005

MRND: Mouvement républicain national pour le développement et la démocratie.

* This group previously also included S. Musabyimana, Bishop of Shyogwe (initial appearance 2 May 2001), who died on 24 January 2003.

IV. Trial-ready cases from 2004 onwards

20. Trials of the remaining 21 detainees will commence from January 2004 onwards. Available information at this stage indicates that at least one of these cases could start in January, subject to the availability of a trial chamber section. The situation can be summarized as shown in table A.3.

Table A.3
Other detained persons

Name	*Former title*	*Initial appearance*	*Joinder case*
A. Seromba	Priest, Kivumu Commune	8 Feb. 2002	
M. Muhimana	Councillor of Gishyita	24 Nov. 1999	
J. Mpambara	Bourgmestre of Rukara	8 Aug. 2001	
I. Hategekimana	Lieutenant Commander of Ngoma Camp, Butare	28 Feb. 2003	With *Muvunyi*?
T. Muvunyi	Commander, École sous-officiers	8 Nov. 2000	With *Hategekimana*?
A. Ndindilyimana	Chief of Staff, Gendarmerie	27 Apr. 2000	*Military II*
F-X Nzuwonemeye	Battalion Commander, FAR	25 May 2000	*Military II*
I. Sagahutu	2IC of Reconnaissance Battalion	28 Nov. 2000	*Military II*
A. Bizimungu	Chief of Staff, FAR	21 Aug. 2002	*Military II*
S. Nchamihigo	Deputy Prosecutor	29 Jun. 2001	
E. Rukundo	Chaplain	26 Sep. 2001	
P. Zigiranyirazo	Businessman	10 Oct. 2001	
F. Karera	Prefect of Kigali Rural	26 Oct. 2001	
P. Bisengimana	Bourgmestre of Gikoro	18 Mar. 2002	
A. Simba	Lieutenant Colonel, FAR	18 Mar. 2002	
V. Rutaganira	Councillor of Mubuga	26 Mar. 2002	
J. Nzabirinda	Youth organizer	27 Mar. 2002	
S. Bikindi	Musician	4 Apr. 2002	
H. Nsengimana	Rector, Christ-Roi College	16 Apr. 2002	
J.-B. Gatete	Bourgmestre of Murambi	20 Sep. 2002	
T. Renzaho	Prefect of Kigali	21 Nov. 2002	

FAR: Forces armeés rwandaises.

21. It should be noted that only one of these accused has been in custody since November 1999. The Tribunal is anxious to give priority to his case when there is an available trial chamber section. Another observation to be made is that there is only one large case in this group of 21 detainees (the *Military II* case, which involves four accused). Consequently, once the large trials mentioned under headings II and III above have been completed (*Butare, Military I, Nzirorera et al.* and *Bicamumpaka et al.*), the Tribunal's remaining caseload relating to present detainees will consist mainly of cases involving a single accused person, which require less court time.

V. Resulting workload (accused at trial or awaiting trial)

22. The time needed for the completion of the cases involving the 41 detainees mentioned in sections II to IV above is difficult to predict. One method is to use the Prosecutor's estimates of the number of witnesses and the number of hours needed to present her case in examination-in-chief. These estimates, presented in tables A.4 and A.5, indicate that 3,600 hours will be needed by the prosecution to present its 774 witnesses for these 23 cases involving 41 detainees.

23. The prosecution's examination-in-chief is followed by the defence cross-examination. The length of this depends on factors relating to each individual case. Experience shows that in cases involving a single accused, the defence cross-examination of the prosecution witnesses will generally not be much longer than the examination-in-chief. It may also be shorter. In cases with several accused, the total time taken for cross-examination often exceeds the time taken for examination-in-chief, particularly if the witness gives evidence implicating more than one or all accused. Under these circumstances, it is assumed, as a working tool, that the total time taken for the cross-examination of the prosecution witnesses by the defence will normally not exceed the total time taken for the prosecution examination-in-chief, when all cases involving the present detainees are considered as a whole. In this context it is also taken into account that the prosecution's list of witnesses is often reduced during trial.

24. Once the prosecution case is completed, the presentation of the defence case begins. Information about defence cases is difficult to obtain, in particular because most of them have not yet started and there is the issue of confidentiality when it comes to defence strategy. It is assumed that the time needed for the entire presentation of the defence case should not exceed the time required for the presentation of the prosecution case. The practice of the Tribunal shows that it may often take less time, particularly in trials of a single accused. But the calculation should also take into account that additional time may be needed at trial, for instance to hear closing arguments (normally between two and five days, depending on the number of accused).

25. Based on these premises it is projected that the Tribunal needs about 12,710 hours to complete the cases involving the present 41 detainees. This represents a total of approximately 310 hours of trial evidence, or approximately 62 trial-days per accused. These are only estimates. As mentioned above, the prosecution usually reduces the number of witnesses as a trial unfolds. Furthermore, the chambers exert considerable control over these variables, for instance by restricting the length of examination-in-chief of both parties and restricting cross-examination. Therefore,

there is reason to believe that the real time spent in court may be less. Trials so far completed show an average number of trial-days per accused of about 62. Recently completed cases seem to indicate a smaller number per accused (Elizaphan and Gérard Ntakirutimana: 30 trial-days per accused; Niyitegeka: 35 trial-days per accused). It is expected that this trend towards shorter trials will continue. However, at present it is considered prudent to use the figure of 62 trial-days per accused as a working tool until a more definitive time frame is experienced.

VI. Workload relating to persons at large

26. It is recalled that 17 indictees are at large. If arrested, they would represent additional workload. According to the Prosecutor, some of the 17 may no longer be alive, whereas others may never be arrested. The Prosecutor intends to complete her 26 remaining investigations by the end of 2004. These investigations will result in a maximum of 26 new indictments, which will be submitted to the judges for confirmation by July 2005. It is noted that the actual number of resulting indictments will most probably be less.

27. The Prosecutor's plan to investigate and indict a maximum of 26 persons, further added to the 17 indictees still at large, might lead to trials for a further 43 accused persons. Based on the working formula in this document, it is projected that trials of 43 accused would take 13,330 hours over a period of 2,666 trial-days (62 trial-days per accused).

VII. Transfer of cases by the Prosecutor to national jurisdictions

28. The Prosecutor has identified about 40 cases that could be tried by national jurisdictions (rule 11 bis). Her intention is to transfer, in some cases, files in respect of which investigations have been completed and are ready for trial and, in other cases, dossiers requiring further investigations in the receiving country. The latter will take place, in particular, in respect of those countries in which some of the targets are already resident. The Prosecutor plans to transfer some of these cases to Rwanda for trial. At the moment, transfer is made difficult by the fact that Rwandan law allows for the imposition of the death penalty. The Prosecutor has started discussions with various States in order to reach agreements to prosecute some of the cases under rule 11 bis. Actual transfer is not envisaged during the biennium 2004-2005. Accordingly, the costs to be incurred during the biennium regarding the transfer of cases to national jurisdictions will largely be costs relating to travel and negotiations with the relevant States.

29. In the event that it is not possible to transfer some of the cases to national jurisdictions, the Prosecutor plans to return to the Security Council to make alternative proposals.

VIII. Total remaining workload

30. A maximum number of trial-days required for the completion of the work of the trial chambers can be projected based on a combination of estimates for the present detainees and the future accused persons. With a number of 84 accused

(including the maximum number of 43 persons at large) and an estimate of 62 trial-days per accused, the total number of trial-days would amount to 5,208.

31. In 2002, the three trial chambers sat a total of 414 days. In 2001, the chambers sat a total of 340 days. Examination of the chambers' actual sitting times shows that the amount of time that a chamber was able to devote to trial in each of the last two years was between 135 trial-days in 2001 and 150 days in 2002. Factors contributing to lowering the number of trial-days include the difficulty of obtaining the appearance of witnesses from Rwanda and judges' and counsel's illness.[d]

32. The Tribunal has taken several steps to ensure that such factors are minimized in future. In particular, the rules have been changed to allow a trial chamber to continue the trial in the eventuality of a judge being ill or absent. In the event of longer-term absence, the relevant provision has been amended to allow cases to continue in certain circumstances (rule 15 bis). The insistence by the trial chambers on having two counsel and, in the event of illness or absence of one counsel, requiring the remaining counsel to continue, will reduce the occurrence of interruptions of trials. At present, witnesses from Rwanda are appearing before the Tribunal. It is important that this situation continue. The Tribunal is anxious to ensure that the number of trial-days as from 2004 will be higher than in the past two years.

33. Experience shows that it is difficult to ensure that witnesses are always available, even with the use of fall-back witnesses in case of unavailability. A frequent situation in practice is that prosecution or defence counsel require additional time to prepare witnesses for examination-in-chief. The Chambers also have to allow defence counsel additional time for the preparation of cross-examinations in situations with unexpected evidence or a lack of prior notice. Sufficient time is needed for judgement-writing responsibilities, pre-trial hearings and deliberations on motions. These circumstances, combined with illness and other forms of unavailability of witnesses, reduce not only the number of trial-days but also the number of sitting hours per trial-day.[e] Nevertheless, the Chambers will continue its efforts to increase the time spent in the courtroom.

34. An important measure to increase courtroom time is the possibility of establishing a fifth trial chamber section (even with only four ad litem judges available). This will make it possible to use single judges from different chambers in a section with judges sitting in periods when there is an available slot between other trials in which they are engaged, or sitting in both morning and afternoon shifts. It also provides the flexibility to establish different composition of sections in order to maximize the judicial output (by allowing, for instance, one of the judges to devote maximum time to judgement-writing during an available slot). Consequently, the Tribunal must have sufficient resources to establish a fifth section. In this connection, it is important to bear in mind the following: based on the discussions in the Security Council in connection with the adoption of resolution 1431 (2002), there is reason to believe that the number of ad litem judges may be increased during the next biennium. This would immediately maximize the judicial output of the fifth trial chamber section. It is important to have an adequate administrative infrastructure available for this scenario.

35. With the present number of four ad litem judges, one trial chamber sitting in two sections operating in a shift system, two other trial chambers sitting five hours a day and a fifth "combined" trial chamber section sitting when there are available

judges, the trial capacity from September 2003 would be between 600 and 700 trial-days per year, and possibly more, depending on the exact output of the fifth section. This can be achieved with three courtrooms (even if it is preferable to have a fourth courtroom). It is recalled that the International Criminal Tribunal for the Former Yugoslavia has six sections operating in shifts with three courtrooms.

IX. Past and present strategies

36. *Pre-trial stage*. Four years ago there were a considerable number of pre-trial motions pending. The Prosecutor at that time originally required the joinder of a large number of accused in one case, at one point asking for the confirmation of a joint indictment for over 20 suspects. The confirming judge denied the request. The Prosecutor then asked for joinder of smaller numbers of accused in cases that raised similar issues, such as the use of public media, the actions of military officials, government officials, or alleged crimes in certain geographical areas of Rwanda (Butare, Cyangugu). This led to a considerable number of motions from the prosecution in order to obtain amendments of indictments and joinder of accused. In addition, a large number of motions were filed by the defence.

37. Consequently, the first priority of the chambers four years ago was to reduce the number of motions in order to move the cases to the trial stage. The judges therefore amended the rules in order to allow for motions to be considered on brief, decided orally or in writing, and by a single judge. These measures taken to reduce the workload of outstanding motions increased the efficiency of chambers and reduced costs in connection with oral hearings of motions. After having reduced the number of pending motions to a minimum, full translation and disclosure of documents was ordered for use in the pending trials before all three trial chambers could proceed to trial.

38. Additionally, rule changes were adopted by the judges in the plenary to regulate the pre-trial process and to restrict the number of interlocutory appeals that were delaying the pre-trial work of the Chambers. Through pre-trial and pre-defence status conferences, the Chambers has the authority to order the disclosure of information from the parties and, in particular, the parties may be ordered to file briefs addressing the factual and legal issues and identifying contested matters and to provide a list of witnesses intended to be called, with a summary of the facts and the specific allegations in the indictment on which the witnesses will testify. Additionally, the parties must give an estimate of the time that will be taken by each witness to give their evidence, and the trial chamber may order a reduction in the number of witnesses and the time for witnesses to give evidence-in-chief. The trial chamber may also demand information on the status of exhibits (rules 73 bis and ter).

39. A more recent step was the establishment of the New Trials Committee, which is composed of representatives of the Chambers, various sections of the Registry and the Office of the Prosecution. The Committee has facilitated the trial-readiness of several new cases. Furthermore, during the recent plenary in May 2003, the judges instituted a pre-trial working group to examine further improvements that might be made to expedite pre-trial work.

40. *Trial stage*. All trial chambers have been conducting trials on a twin-track basis (in some instances on a triple-track basis). This strategy resulted in the

production of a considerable number of judgements during the current year. However, twin-tracking of two big cases (or even three) is cumbersome. Experience shows that the best model is to twin-track one big and one small case, and this strategy will be followed in future, unless the big case is particularly voluminous and complex. The Tribunal will also use the so-called shift system, which implies that one courtroom is used for two cases, heard in morning and afternoon sessions respectively. The shift system implies a morning shift from, for instance, 8.30 to about 13.30, and an afternoon shift until about 19.00. A test project in October 2002 gave promising results, and the system has been used successfully at the International Criminal Tribunal for the Former Yugoslavia.

41. In spite of these measures to accelerate the proceedings, the cases will still be time-consuming. It should be remembered that conducting judicial proceedings is a more complicated task at the international level than at the national level. The cases at the ad hoc tribunals are legally and factually very complex; there is a considerable volume of documents required in trying alleged high-ranking members of the Government; the documents are all subject to disclosure and must be translated for legal teams and accused, who may require translations of all the documents into an official language of the Tribunal before they respond to motions or undertake trial preparation; the number of witnesses is often considerable in joinder cases, simultaneous interpretation of all testimony into three languages is required; witnesses often have to be extracted from a difficult environment, afforded considerable protection before and after testimony and sometimes relocated; the staff and counsel involved in cases come from different cultures and traditions and effective communication requires new skills and extra effort; defence and prosecution counsel come from all over the world and have different courtroom styles and rules; and defence counsel have to leave their other casework for considerable periods to spend time working at the Tribunal in Arusha, usually away from their practices.

42. With the change of the Tribunal from one centred on the investigation and arrest of suspects to one centred on the trial of accused, the Registry will focus its attention on the end-date for the Tribunal in all its workplaces. No contract will be entered into, no item of equipment will be purchased and no personnel will be recruited without a consideration of how the closing of the Tribunal will affect the issue and how it will, in turn, affect the completion strategy.

43. In assessing its human resources needs with a view to promoting the implementation of its completion strategy, the prosecution envisages an increase in the number of trial teams. This increase will be addressed upon the redeployments upon the conclusion of the investigations at the end of 2004. Some of the posts currently encumbered by investigators will be redeployed to increase the number of trial attorneys, legal advisers and other staff required for trial. The prosecution intends to maintain 10 trial teams, which should meet the need arising from the anticipated increase in the number of trials.

X. Conclusions

44. Based on the current trial capacity outlined above, it is possible to draw some conclusions.

45. The cases involving the present 41 detainees at trial or awaiting trial represent an estimated workload of 12,710 hours. It is estimated that five trial chamber sections (one of which will operate subject to the availability of a sufficient number of judges, as explained in para. 34 above) can produce 3,375 trial hours per year. Based on this premise, the trials of these detainees could be completed in about four years, or by September 2007. It is important to stress that this is only an estimate.[f]

46. Turning to the 17 indictees at large, it is estimated that their trials would require approximately 1,054 days. On the same basis as above, five trial chambers would produce 675 trial-days (or 3,375 hours; see above) per year. Therefore, the trials of all these accused would take approximately one and a half years. If they were immediately to follow the above-mentioned trials, they could be completed by 2009. Again, it is recalled that this is a maximum number and in all probability the number brought to trial will be less.

47. Examining now the maximum number of 26 indictments that may be issued as a result of ongoing investigations, it is estimated that they would lead to an additional need for 1,612 trial-days in order to be completed, or about two years and four months, based on an average of 62 trial-days per accused. If this is added to the projections made above, these trials would be finalized by 2011. Once again, it is recalled that the actual number of persons brought for trial is expected to be less.

48. These projections may be reduced. It has already been mentioned that the estimated number of prosecution witnesses may, in fact, be less during trial, and that the average number of trial-days per accused may be reduced (see para. 25). Moreover, under rule 11 bis, a trial chamber may order that the indictment against an accused be suspended pending proceedings against him before a national court. This provision, which was inserted during the twelfth plenary session, may assist in reducing the number of cases heard by the trial chambers.

49. Guilty pleas reduce the length of trials. Experience shows that not more than a day is needed for a chamber to satisfy itself that a guilty plea is informed, unequivocal and made freely and voluntarily. The writing of the judgement requires a few weeks.[g] It is difficult at this stage to estimate how many accused this may involve. However, it is worth noting that at the thirteenth plenary session a legal basis was adopted for plea-bargaining.

50. On 19 May 2003, the Security Council adopted resolution 1481 (2003), which allows ad litem judges to adjudicate in pre-trial proceedings at the International Criminal Tribunal for the Former Yugoslavia. The original request of the International Criminal Tribunal for Rwanda for ad litem judges contained the same proposal, but it was rejected. The Tribunal remains of the view that there is no reason in principle or in practice for ad litem judges not being assigned tasks at the pre-trial stage. This would accelerate the proceedings.

51. The quickest and most efficient way to achieve an increase in trial capacity remains to increase the number of judges and the number of sitting chambers. If the number of ad litem judges sitting at any one time was increased from four to nine, the number of trial chamber sections would change from four or five to six. In effect, this could double the trial capacity of the Tribunal and accelerate the time frame for the completion strategy. Such a reform would require an amendment of the statute (as would the proposal contained in para. 47).

52. As mentioned previously, the present document is part of the continuing process of refining and developing a completion strategy. The Tribunal welcomes contributions to this process.

Table A.4
Prosecutor's figures for trials of present detainees

Case	Number of		
	Accused	*Witnesses*	*Hours for Prosecution case-in-chief*
1. *Butare*	6	65	330
2. *Military I*	4	100	500
3. *Muvunyi and Hategikimana*	2	43	180
4. *Seromba*	1	20	100
5. *Ndindabhizi*	1	15	50
6. *Military II*	4	90	500
7. *Government I*	4	50	300
8. *Government II*	4	45	300
9. *Zigiranyirazo*	1	30	100
10. *Bikindi*	1	30	100
11. *Renzaho*	1	30	100
12. *Simba*	1	41	170
13. *Bisengimana*	1	15	50
14. *Karera*	1	15	50
15. *Mpambara*	1	30	150
16. *Gacumbitsi*	1	30	120
17. *Rukundo*	1	20	80
18. *Nzabirinda*	1	15	60
19. *Nsengimana*	1	15	60
20. *Muhimana*	1	15	60
21. *Rutaganira*	1	15	60
22. *Gatete*	1	30	120
23. *Nchamihigo*	1	15	60
Total	**41**	**774**	**3 600**

Table A.5
Estimates based on the Prosecutor's figures for present detainees

Case	Number of: Accused	Prosecution witnesses	Hours for Prosecution case-in-chief	Hours for Defence cross-examination	Hours for Defence case-in-chief	Hours for Prosecution cross-examination	Total hours
1. *Butare*	6	65	330	330	330	330	1 320
2. *Military I*	4	100	500	500	500	500	2 000
3. *Muvunyi and Hategikimana*	2	43	180	180	180	180	720
4. *Seromba*	1	20	100	100	100	100	400
5. *Ndindabhizi*	1	15	50	50	50	50	200
6. *Military II*	4	90	500	500	500	500	2 000
7. *Government I*	4	50	300	300	300	300	1 200
8. *Government II*	4	45	300	300	300	300	1 200
9. *Zigiranyirazo*	1	30	100	100	100	100	400
10. *Bikindi*	1	30	100	100	100	100	400
11. *Renzaho*	1	30	100	100	100	100	400
12. *Gikongoro*	1	41	170	170	170	170	680
13. *Bisengimana*	1	15	50	50	50	50	200
14. *Karera*	1	15	50	50	50	50	200
15. *Mpambara*	1	30	150	150	150	150	600
16. *Gacumbitsi*	1	30	120	120	120	120	480
17. *Rukundo*	1	20	80	80	80	80	320
18. *Nzabirinda*	1	15	60	60	60	60	240
19. *Nsengimana*	1	15	60	60	60	60	240
20. *Muhimana*	1	15	60	60	60	60	240
21. *Rutaganira*	1	15	60	60	60	60	240
22. *Gatete*	1	30	120	120	120	120	480
23. *Nchamihigo*	1	15	60	60	60	60	240
Total	**41**	**774**	**3 600**	**3 600**	**3 600**	**3 600**	**14 400**

Notes

[a] Trial chamber III expects to deliver its judgement in the *Cyangugu* case by the end of 2003 or, at the latest, in February 2004.

[b] In view of the uncertainty relating, in particular, to the number of persons at large that will be tried by the Tribunal, and bearing in mind that the main purpose of the present document is to provide information as to how the resources requested for the biennium will support the completion strategy, it is not considered advisable at this stage, to indicate a completion strategy for the appeals chamber (which also depends on the completion strategy). It is recalled, however, that all judgements except one have been appealed.

[c] "Twin-tracking" implies that two trials are heard in consecutive slots, for instance according to the following pattern: trial A five weeks, trial B five weeks, trial A five weeks, etc. Defence counsel in trial A will leave Arusha while trial B is heard. The purpose of this system is to use inevitable breaks during one trial to ensure progress of another case. Such breaks allow the prosecution and the defence to prepare for the next stage of the proceedings (for instance by interviewing witnesses etc.).

[d] In 2001, some time was lost because of the death of one judge.

[e] In 2003, there has been disruption to trial schedules because some of the judges were not re-elected. This required the reconstitution of chambers and the reorganization of work.

[f] The projections in this section differ in some respects from those contained in the Tribunal's request for ad litem judges (A/56/265 and Corr.1). The main reasons are that the number of detainees has increased; the Security granted only four ad litem judges at any one time, and they will only be available from September 2003 (and not by the end of 2002, as originally envisaged).

[g] The following judgements were based on guilty-pleas: *Prosecutor v. Jean Kambanda* (1998); *Prosecutor v. Omar Serushago* (1999); *Prosecutor v. Georges Ruggiu* (2000).